

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 16-56000

GWENDOLYN E. MINGO,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING DEBTOR'S MOTION TO IMPOSE
THE AUTOMATIC STAY**

This case is before the Court on a motion filed by Debtor entitled "Debtor's Revised Motion for Imposition of Stay," filed January 18, 2017 (Docket # 33, the "Motion").¹ The Debtor filed her voluntary petition for relief under Chapter 13 on November 29, 2016, commencing this case. The Debtor previously filed five bankruptcy cases in this Court, two of which were pending within the previous year but were dismissed: Case No. 15-46833, dismissed on April 28, 2016; and Case No. 16-49113, dismissed on September 7, 2016.

On December 27, 2016, Debtor filed a motion to extend the stay under 11 U.S.C. § 362(c)(3)(B) (Docket # 16, the "Extend Stay Motion"). On December 28, 2016, the Court entered an order denying the Extend Stay Motion (Order, Docket # 17), because under 11 U.S.C. § 362(c)(4)(A)(i),² no stay went into effect upon the filing of this case, due to Debtor's two

¹ Debtor filed two previous motions to impose the stay, one on December 28, 2016 (Docket # 18) and one on January 9, 2017 (Docket # 28). Both of those motions were stricken; the first because of Debtor's failure to comply with a deficiency notice; and the second because the docket entry made by the filing attorney did not match the document filed. (See Orders, Docket ## 25, 29).

² Under 11 U.S.C. § 362(c)(4)(A)(I):

if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case.

previous cases dismissed within the one year before the filing of this case.

On January 18, 2017, the Debtor filed the present Motion, seeking an order imposing the automatic stay under 11 U.S.C. § 362(c)(4)(B). The Court must deny the Motion because § 362(c)(4)(B) requires that such a motion be filed within 30 days after the Debtor's filing of this case. That 30-day deadline was December 29, 2016, and the present Motion was not filed until January 18, 2016.

For this reason, the Court must deny the Motion. But the Court notes that this Order does not preclude the possibility of the Debtor obtaining injunctive relief equivalent to the automatic stay as part of a confirmed plan, as noted below.

Accordingly,

IT IS ORDERED that the Motion (Docket # 33) is denied.

IT IS FURTHER ORDERED that this Order is without prejudice to Debtor's right to propose and seek to confirm a Chapter 13 plan that imposes an injunction equivalent in effect to the automatic stay, applicable on a post-confirmation basis. *See generally* 11 U.S.C. §§ 1322(b)(11) and 105(a); Fed. R. Civ. P. 7001(7).

Signed on January 25, 2017

/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge